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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,778	05/27/2004	David J. Armstrong	215504082003	3777

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EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/709,778

Applicant(s)

ARMSTRONG, DAVID J. 

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claim 4 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 4 and 14, the phrase "said sphere" lacks antecedent basis.

***Claim Objections***

2. Claim 7 is objected to because of the following informalities: it appears as if the phrase "largerthan" should read "larger than". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Orsini, U. S. Patent 5,027,539.

With respect to claims 1 and 3, Orsini teaches a pole restrained kite or airfoil for a vehicle antenna 1, comprising a rising member 14 having an aperture (not labeled), and fixed wings 12, in communication with the rising member. The rising member is in the form of a balloon having a sphere upper portion. (See figure 2).

With respect to claims 2 and 4, since the applicant does not define light weight, the rising member/balloon taught by Orsini is considered to be lightweight.

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4. Claims 8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Hara, U. S. Patent 5,182,146.

With respect to claim 8, O'Hara teaches a decorative vehicle air speed indicator comprising a staff 12, an arm 40, in communication with said staff, and a fastening means 16 in communication with the arm.

With respect to claim 10, the staff is long.

5. Claims 1, 2, 5, 8, 10-12, 15, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ackman, Jr., U. S. Patent 1,441,261.

With respect to claims 1, 8, and 10, Ackman teaches an aerial device comprising a rising member (airplane) having an aperture (not labeled), and fixed wings **b** in communication with the airplane. Ackman also teaches means for attaching the airplane to a vehicle comprising a long staff 1, an arm 10, and a fastening bracket 11 and 12.

With respect to claims 2 and 11, since the applicant does not define light weight, the airplane taught by Ackman is considered to be lightweight.

With respect to claims 5 and 15, Ackman teaches a sleeve 15, in communication with the airplane, wherein the sleeve is larger than the staff 1.

Claims 8, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Conway, U. S. Patent 6,378,453.

With respect to claims 8-10, Conway teaches a foldable flexible vehicle locator comprising a long staff 10, an arm 21 in communication with the staff and a fastening means in the form of a hook 29 in communication with the arm.

Claims 1, 2, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Godman, U. S. Patent 1,927,399.

With respect to claims 1 Godman teaches an airplane comprising a body 6 having an aperture (not labeled), and fixed wings 18 in communication with the airplane.

With respect to claim 5, Godman teaches a sleeve 12.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ackman in view of Conway.

8. Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara in view of Orsini. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the air speed indicator taught by O'Hare with spherical rising member as taught by Orsini to provide a means to enhance the aesthetic appearance of the device.


9. Claims 1, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trent et al., U.S. Patent 3,557,447. It would have been obvious to one having ordinary skill in the art the time this invention was made to construct the display means 22 taught by Trent with indicia to provide a means to convey a message to the viewer.

10. Claims 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Hara in view of Trent et al. It would have been obvious to one having ordinary skill in the art the time this invention was made to construct the rising means taught by O'Hara with the display means 22 taught by Trent with indicia to provide a means to convey a message to the viewer.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 703-308-2223. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Cassandra Davis  
Primary Examiner  
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